

— EXHIBIT 1 —

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division**

DALE FOSTER, DARLA SOLOMON and
DAVID LEITHREN, individually and on behalf
of all others similarly situated,

Plaintiff,

-v-

LOWER, LLC,

Defendant.

Civil Action No.: 1:22-CV-1581 (GLR)

EDGAR WOLFF, individually and on behalf of
all others similarly situated,

Plaintiff,

-v-

LOWER, LLC,

Defendant.

Civil Action No.: 1:22-cv-02003 (JKB)

DECLARATION OF SARA RUGG RE: SETTLEMENT ADMINISTRATION

I, SARA RUGG, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am an Associate Project Manager with Angeion Group, LLC (“Angeion”), the Settlement Administrator retained in this matter, located at 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein.

2. Angeion was retained by the Parties and appointed by this Court to serve as Settlement Administrator and to, among other tasks, (1) provide notice to potential Class Members; (2) respond to Class Member inquiries; (3) receive and process claims submissions; (4) receive and process opt outs and objections; and (5) perform other duties as specified in the *Settlement*

Agreement and Release (“Settlement Agreement”) and by the directives of the Court, including but not limited to the *Preliminary Approval Order*, entered on July 27, 2023 granting preliminary approval of the settlement.

3. Angeion is not related to or affiliated with the Plaintiff, Plaintiff’s Counsel, Defendant or Defendant’s Counsel.

CAFA NOTICE

4. Pursuant to 28 U.S.C. § 1715, Angeion, on behalf of Defendant, caused notice regarding the settlement to be sent to the Attorneys General of all states and territories, as well as the Attorney General of the United States on July 27, 2023 (“CAFA Notice”). The CAFA Notice was in the same form as **Exhibit A** attached hereto.

CLASS LIST

5. On July 31, 2023, Angeion received from Counsel for Defendant the Settlement Class List consisting of 181,300 records. Each record included a Class Member’s name and last known mailing address. Email addresses were provided for 82,683 records. Angeion reviewed the records that were provided and compiled the Class Member database (“Class List”).

MAILED NOTICE

6. Prior to mailing the Postcard Notice, Angeion processed the 181,300 mailing addresses through the United States Postal Service (“USPS”) National Change of Address (“NCOA”) database to identify updated addresses for individuals and businesses who have moved in the last four years and filed a change of address card with the USPS. The NCOA results provided 24,071 updated addresses for the Class Members. Angeion updated the Class List with these updated addresses.

7. On September 11, 2023, Angeion caused the Postcard Notice to be mailed via USPS first class mail, postage prepaid to the 181,300 Class Members. A true and accurate copy of the Postcard Notice is attached hereto as **Exhibit B**.

8. As of November 13, 2023, the USPS has returned 894 of the initial Notices with a forwarding address. Angeion has updated the Class List for these records and has re-mailed Notice to the 894 records.

9. As of November 13, 2023, a total of 12,634 Notices mailed were returned by the USPS as undeliverable without a forwarding address. Angeion conducted address verification searches (“skip traces”) in an attempt to locate updated addresses. Of the records subjected to a

skip trace, a new address was located for 913 of them. Angeion updated the Class Member database and has re-mailed Notices to the 913 Class Members located via this process. Of the re-mailed Notices, none have been returned by the USPS a second time.

CASE SPECIFIC WEBSITE

10. On September 11, 2023, Angeion established the following website devoted to this Settlement: <https://www.lowerdataincidentsettlement.com> (“Settlement Website”). The Settlement Website contains an online portal where Class Members may submit a claim. The Settlement Website contains downloadable versions of the Claim Form, Long-Form Notice, Settlement Agreement, Preliminary Approval Order, and other Settlement related documents. The Settlement Website also has a “Frequently Asked Questions” page which provides Class Members with answers to common inquiries about the Settlement, and a “Contact Us” page which provides Class Members with the mailing address, phone number and email address to contact the Settlement Administrator. True and accurate copies of the Long-Form Notice and Claim Form are attached hereto as **Exhibit C** and **Exhibit D**, respectively.

11. As of November 13, 2023, the Settlement has had 14,303 unique visitors, resulting in approximately 45,166 page views.

CASE SPECIFIC HOTLINE

12. On September 11, 2023, Angeion also established a toll-free hotline devoted to this Settlement to further apprise Class Members of their rights and options in the Settlement: 1-833-955-1999. The toll-free hotline utilizes an interactive voice response (“IVR”) system to provide Class Members with responses to frequently asked questions and provide essential information regarding the Settlement. Class Members may also leave a message for the Settlement Administrator, provide updated information, or ask additional questions and Angeion will call them back. This hotline is accessible 24 hours a day, 7 days a week.

13. As of November 13, 2023, Angeion has received 1,865 calls for a total of 9,333 minutes.

CLAIM FORM SUBMISSIONS

14. The deadline for Class Members to submit a Claim Form is December 11, 2023. As of November 13, 2023, Angeion has received 12,750 Claim Forms (44 via mail, 12,706 via the online portal).

15. Claim Forms can be submitted for one or more of the following settlement benefits:

cash payment; credit monitoring services; compensation for lost time, reimbursement for out-of-pocket expenses, and reimbursement for extraordinary out-of-pocket expenses related to the data breach. Of the 12,750 Claim Forms received, as of November 13, 2023, a total of 7,757 claims were submitted for credit monitoring services, 10,089 claims were submitted for the cash payment, 68 claims were submitted for reimbursement of ordinary out-of-pocket expenses, 38 claims were submitted for extraordinary out-of-pocket expenses, and 2501 claims were submitted for compensation of lost time.

EXCLUSION REQUESTS AND OBJECTIONS

16. The deadline for Class Members to exclude themselves from the Settlement was November 9, 2023. As of November 13, 2023, Angeion has received 5 requests for exclusion. A table summarizing the exclusion requests received is attached hereto **Exhibit E**.

17. The deadline for Class Members to object to the Settlement was November 9, 2023. As of November 13, 2023, Angeion has not received any objections to the Settlement.

DISTRIBUTION AND REMAINING TASKS

18. Angeion will continue to accept and process Claim Forms and will continue to inform the Parties of the number of Claim Forms received. Angeion will also keep the Parties apprised of any additional exclusion requests or objections.

19. Upon issuance of a Final Order from this Court and achievement of the benchmarks set forth in the Settlement Agreement, Angeion will cause the distribution of Settlement benefits to take place in accordance with the terms of the Settlement Agreement or as otherwise directed by this Court.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: November 13, 2023


SARA RUGG

Exhibit A

1650 Arch Street, Suite 2210
Philadelphia, PA 19103
www.angeiongroup.com
215.563.4116 (P)
215.525.0209 (F)

July 27, 2023

VIA USPS PRIORITY MAIL

United States Attorney General &
Appropriate Officials

Re: Notice of Class Action Settlement
Foster, et al v. Lower LLC- CAFA Notice

Dear Counsel or Official:

Angeion Group, an independent Claims Administrator, on behalf of the defendant in the below-described action, hereby provides your office with this notice under the provisions of the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, to advise you of the following proposed class action settlement:

Case Name: **Foster, et al v. Lower LLC and Wolff v. Lower, LLC.** - CAFA Notice
Index Number: 1:22-CV-1581 (GLR) and 1:22-cv-02003 (JKB)
Jurisdiction: United States District Court, District of Maryland Northern Division
Date Settlement Filed with Court: 07/17/2023

In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD-ROM:

1. **28 U.S.C. § 1715(b)(1)-Complaint:** Plaintiff's Class Action Complaint, filed with the Court on June 27, 2022, and the Amended Class Action Complaint, filed with the Court on September 6, 2022, can be found on the enclosed CD-ROM as "Exhibit 1 – Complaints."
2. **28 U.S.C. § 1715(b)(2)-Notice of Any Scheduled Judicial Hearings:** There are no judicial hearings currently scheduled.
3. **28 U.S.C. § 1715(b)(3)-Notification to Class Members:** The Long Form Notice, Short Form Notice, and Claim Form as submitted to the Court on July 17, 2023, can be found on the enclosed CD as "Exhibit 2 – Notice of Class Action Settlement to Class Members."
4. **28 U.S.C. § 1715(b)(4)-Class Action Settlement Agreement:** The Settlement Agreement and Release entered by the parties and submitted to the Court on July 17, 2023, can be found on the enclosed CD as "Exhibit 3 –The Settlement Agreement and Release."

5. **28 U.S.C. § 1715(b)(5)-Any Settlement or Other Agreements:** Other than the Settlement Agreement, no other settlements or other agreements have been contemporaneously made between the Parties.
6. **28 U.S.C. § 1715(b)(6)-Final Judgment:** The Court has not issued a Final Judgment or notice of dismissal as of the date of this CAFA Notice.
7. **28 U.S.C. § 1715(b)(7)(B)-Estimate of Class Members:** The “Settlement Class” is defined in the Settlement Agreement as “all persons who were sent a notice of the Data Incident by Lower, LLC identifying them as individuals potentially affected by the Data Incident.” The Settlement Class contains approximately 181,300 Class Members located throughout the United States. An approximate breakdown of class members by state can be found on the enclosed CD as “Exhibit 4 – Class Members by State”.
8. **28 U.S.C. §1715(b)(8)-Judicial Opinions Related to the Settlement:** The Court has not issued a judicial opinion related to the Settlement at this time.

If you have questions or concerns about this notice, the proposed settlement, or the enclosed materials, or if you did not receive any of the above-listed materials, please contact this office.

Sincerely,

Angeion Group
1650 Arch Street, Suite 2210
Philadelphia, PA 19103
(p) 215-563-4116
(f) 215-563-8839

Enclosures

Exhibit B

CLASS ACTION SETTLEMENT NOTICE

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A proposed Settlement has been reached in a class action lawsuit known as *Foster et al. v. Lower, LLC*, Case No. 1:22-cv-01581-GLR filed in the United States District Court for the District of Maryland

A Settlement has been proposed in a class action lawsuit against Lower, LLC (“Lower” or “Defendant”). The Settlement resolves claims brought by individuals impacted by the data incident which occurred between September 2, 2021, and December 16, 2021, and resulted in the potential compromise of those individuals’ Personal Identifying Information (“PII”) (the “Data Incident”).

For more information, call or visit the website below:

www.LowerDataIncidentSettlement.com
1-833-955-1999

Lower Data Incident Settlement
c/o Settlement Administrator
1650 Arch Street, Ste 2210
Philadelphia, PA 19103

First-Class
Mail
US Postage
Paid
Permit #__



Postal Service: Please do not mark barcode

Notice ID: «**Claimant ID**»
Confirmation Code: «**Code**»
«**First1**» «**Last1**»
«**C/O**»
«**Addr1**» «**Addr2**»
«**City**», «**St**» «**Zip**»

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You are receiving this notice because you may be a Settlement Class Member. You received this notice because you have been identified as a person who previously received a notice from Lower in or around mid-2022 that your PHI may have been accessed or exposed during the Data Incident.

Under the terms of the Settlement, you may submit a Claim for the following benefits:

- A cash payment of \$100.00 or, in lieu of a cash payment, reimbursement for ordinary losses (maximum payment of up to \$2,500), including up to 10 hours of lost time spent dealing with the Data Incident or extraordinary losses (maximum payment of \$7,500) from the proposed Settlement.
- Two years of three-bureau credit monitoring.

Please read this notice carefully. Your legal rights will be affected, and you have a choice to make now.

The easiest way to submit a claim is online at www.LowerDataIncidentSettlement.com using your Notice ID and Confirmation Code found on the front of this postcard. To be eligible, you must complete and submit a Valid Claim Form, postmarked or submitted online on or before **December 11, 2023**.

You can exclude yourself or object to the settlement on or before **November 9, 2023**. If you do not exclude yourself from the Settlement, you will remain in the class and give up the right to sue Lower LLC or the Released Parties for the Released Claims in the Settlement. **A summary of your rights under the Settlement and instructions regarding how to submit a Claim, exclude yourself, or object to the Settlement are available at www.LowerDataIncidentSettlement.com.**

The Court will hold a Final Fairness Hearing on **December 1, 2023, at 10:00 am** in Courtroom 7A, at 101 West Lombard Street, Baltimore, MD 21202 to consider whether the proposed Settlement is fair, reasonable, and adequate. The Court will also consider Class Counsel's request for an award of attorneys' fees of up to \$475,000 plus case expenses, and Class Counsel's request for \$2,500 service awards for the Class Representatives. The Court will also determine whether the Settlement should be approved. You may attend the hearing, at your own expense, but you do not have to.

This is only a summary. For additional information, including a copy of the Settlement Agreement, Long Form Notice, Claim Form, Class Counsel's Application for Attorneys' Fees, Expenses, and Service Awards, and other documents, visit www.LowerDataIncidentSettlement.com or call 1-833-955-1999.

Exhibit C

Notice of Lower, LLC Data Incident Class Action Settlement

If you received notice from Lower, LLC that your personal information was potentially compromised in the 2021 Data Incident, you could get a payment from a class action settlement.

A federal court has authorized this Notice. This is not a solicitation from a lawyer.

Please read this Notice carefully and completely, your legal rights are affected whether you act or don't act.

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

- A Settlement has been proposed in a class action lawsuit against Lower, LLC (“Lower” or “Defendant”). The Settlement resolves claims brought by customers impacted by the data incident which occurred between September 2, 2021, and December 16, 2021, and resulted in the potential compromise of customers’ Personal Identifying Information (“PII”) (the “Data Incident”).
- You may be eligible to receive a cash payment of \$100.00 or, in lieu of a cash payment, reimbursement for ordinary losses (maximum payment of up to \$2,500) or extraordinary losses (maximum payment of \$7,500) from the proposed Settlement. To receive a payment, you must complete and submit a claim form. You may also be eligible for up to two years of credit monitoring.
- Please read this notice carefully. Your legal rights will be affected, and you have a choice to make now.

Summary of Your Legal Rights and Options		Deadline
SUBMIT A CLAIM FORM	The only way to get a payment or credit monitoring.	Online or Postmarked by December 11, 2023.
EXCLUDE YOURSELF BY OPTING OUT	Get no payment. Keep your right to file your own lawsuit against Lower, LLC for the same claims resolved by this Settlement.	Postmarked by November 9, 2023.

OBJECT TO THE SETTLEMENT AND/OR ATTEND A HEARING	Tell the Court the reasons why you do not believe the Settlement should be approved. You can also ask to speak to the Court at the hearing on December 1, 2023 , about the fairness of the Settlement, with or without your own attorney.	Received by November 9, 2023.
DO NOTHING	Get no payment and be bound by the terms of the Settlement.	

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement after any appeals are resolved.

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BASIC INFORMATION

1. Why did I get this notice?

You received this notice because you have been identified as a person who previously received a notice from Lower in or around mid-2022 that your PII may have been accessed or exposed during the Data Incident. A group of similarly situated individuals brought a proposed class action lawsuit against Lower in 2022, alleging that Lower was negligent due to its data security practices. Lower denied the allegations and denied that it would be found liable. The parties have now reached a proposed settlement of the lawsuit.

A court authorized this notice because you have a right to know about your rights under the proposed class action Settlement before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections and appeals are resolved, a Settlement Administrator appointed by the Court will make the payments that the Settlement allows, and the pending legal claims against Lower will be released and dismissed.

This package explains the lawsuit, the Settlement, your rights, what benefits are available, who is eligible for them, and how to get them. The cases are *Foster et al. v. Lower, LLC*, No. 1:22-cv-01581-GLR (D. Md.) and *Wolff v. Lower, LLC*, No. 1:22-cv-02003-JKB (D. Md.). Judge George Levi Russel, III and Chief Judge James K. Bredar of the United States District Court for the District of Maryland are in charge of these cases, respectively.

2. What is this lawsuit about?

This matter is a putative class action (the “Litigation”) arising from a Data Incident whereby a cybercriminal gained unauthorized access to Lower’s data environment between September 2, 2021, and December 16, 2021, resulting in potential access to certain personal identifying information. The lawsuit asserts common law and statutory claims against Lower for alleged negligent data security practices.

Defendant denies any allegation of wrongdoing and denies that Plaintiffs would prevail or be entitled to any relief should this matter proceed to be litigated.

3. What is a class action?

In a class action one or more people called “Class Representatives” sue on behalf of themselves and other people who have similar claims. This group of people is called the “class,” and the people in the class are called “Settlement Class Members” or the “Settlement Class.” One court resolves the issues for all Settlement Class Members, except for people who exclude themselves from the class. The people who sued are called the Plaintiffs. The entity they sued—Lower—is called the Defendant.

4. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendant. Instead, both sides agreed to a Settlement. That way, they avoid the costs and risks of a trial, and Settlement Class Members can

get benefits or compensation. The Class Representatives and Class Counsel think the Settlement is in the best interest of the Settlement Class.

WHO IS IN THE SETTLEMENT?

5. Who is in the Settlement?

The Settlement Class is defined as: “All Persons Lower LLC identified as being among those individuals impacted by the Data Incident, including all who were sent a notice of the Data Incident.”

6. Are there exceptions to being included?

Yes, the following are not included in the Settlement Class: (a) officers, directors, and trustees of the Defendant; (b) all judges and their staff assigned to this case and any members of their immediate families; (c) the mediator; (d) experts retained in this Litigation by the Parties; (e) the Parties’ counsel in this Litigation; and (f) anyone who timely requests to be excluded from the Settlement.

7. What should I do if I am not sure whether I am included?

If you are not sure whether you are included in the Settlement Class, you can ask for free help by calling the Settlement Administrator, at 1-833-955-1999 or you can visit www.LowerDataIncidentSettlement.com for more information.

THE SETTLEMENT BENEFITS

8. What does the Settlement Provide?

Under the Settlement, Lower will establish a non-reversionary settlement fund in the amount of One Million Four Hundred and Twenty-Five Thousand Dollars (\$1,425,000.00). These funds will be used to pay for all valid claims made by Settlement Class Members, notice and administration costs, service awards, and attorneys' fees and costs. In no event shall Lower pay more than \$1,425,000.00.

9. What can I get from the Settlement?

Settlement Class Members may file a claim for one or more of the following settlement benefits.

Cash Payment: Settlement Class Members may file a claim to receive a \$100.00 Cash Payment. Settlement Class Member may not claim the cash payment in addition to the other following settlement benefits.

Ordinary Losses: Settlement Class Members may also file a claim for reimbursement for ordinary losses of up to \$2,500 that are reasonably traceable to the Data Incident. Ordinary losses can include out of pocket expenses related to the Data Incident including bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel. Additionally, ordinary

losses might include fees for credit reports, credit monitoring, or other identity theft insurance products purchased between September 2021 and the date of the close of the Claims Period. Settlement Class Members may also claim lost time, up to 10 hours at \$20/hour, for time spent dealing with the Data Incident. Settlement Class Members will be required to provide documentation and affirm under penalty of perjury their belief that the claimed Ordinary Losses are due to the Data Incident.

Extraordinary Losses: Settlement Class Members may also file a claim for reimbursement for extraordinary losses of up to \$7,500 for losses that were more likely than not caused by the Data Incident. Such losses must not be already covered by the ordinary losses category, and must be an actual, documented, and unreimbursed monetary loss that occurred during the specified period. Settlement Class Members must also provide evidence that he or she made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance.

Credit Monitoring: All Settlement Class Members will be offered the opportunity to claim a 2-year membership of 3-bureau credit monitoring with at least \$1 million in fraud protection.

10. What am I giving up if I stay in the Class?

If you are a Settlement Class Member and you do not exclude yourself from the Settlement, you will give up your right to sue, continue to sue, or be part of any other lawsuit against Defendant or other released parties concerning the claims released by this Settlement. The Settlement Agreement describes the legal claims that you give up if you remain in the Settlement Class. The entire text of the Settlement Agreement can be viewed at www.LowerDataIncidentSettlement.com

How to Get a Payment – Making A Claim

11. How can I get a payment?

You must complete and submit a Claim Form by **December 11, 2023**. Claim Forms may be submitted online at www.LowerDataIncidentSettlement.com or printed from the website and mailed to the address on the form.

Be sure to read the Claim Form instructions carefully, include all required information, and your signature.

The Settlement Administrator will review your claim to determine the validity and amount of your payment.

12. How much will my payment be?

The amount of your payment will depend on the approved amount of your claim and the total value of all approved claims.

If you are claiming Ordinary Losses under the Settlement, you must describe the loss, any out-of-pocket expenses, their amount, and when and why you incurred them. If your claim is for expenses related to a credit freeze, credit monitoring, identity theft protection, similar services, or other

expenditure, you must also attest that you incurred those losses in response to the Data Incident in this case. Claims for Extraordinary Losses must also be documented, along with unreimbursed monetary losses that were more likely than not caused by the Data Incident.

Your claim must be reasonably documented—you must enclose or upload documentation sufficient to show (a) the amount of unreimbursed loss that you suffered, and (b) why you believe that the loss is reasonably attributable to the Data Incident in the case. Documents for financial expenses may include credit card or bank statements, emails, invoices, receipts, or telephone records, including photographs of the same. Personal statements or declarations are not considered reasonable documentation, but they may be used to provide clarification, context, or support for other documentation.

13. When will I get my payment?

The Court will hold a hearing on Friday, December 1, 2023, to decide whether to approve the Settlement. Payments will be made after the Settlement is approved and becomes final (meaning there is no appeal from the order approving the Settlement). Updates regarding the Settlement will be posted on the Settlement website, www.LowerDataIncidentSettlement.com.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC and Raina C. Borrelli of Turke & Strauss LP represent the Settlement Class. These lawyers are called Class Counsel. You will not be charged for their services.

15. Should I get my own lawyer?

If you want your own lawyer, you may hire one, but you will be responsible for any payment for that lawyer's services. For example, you can ask your own lawyer to appear in court for you if you want someone other than Class Counsel to speak for you. You may also appear for yourself without a lawyer.

16. How will the lawyers be paid?

The attorneys representing the Class have not yet received any payment for their legal services or any reimbursement of the costs or out-of-pocket expenses they have incurred. Class Counsel plans to ask the Court to award attorneys' fees from the Settlement Fund, not to exceed one third of the Settlement Fund (i.e., not more than \$475,000). Class Counsel also may petition the Court for up to \$10,000 in costs and expenses. Lower has agreed not to object to these requests.

The Settlement Class is represented by four named individuals (the "Class Representatives"). In addition to the benefits that the Class Representatives will receive as members of the Settlement Class—and subject to the approval of the Court—Lower has agreed to pay service awards to collectively not exceed \$2,500 to the Settlement Class Representatives for the efforts they have expended on behalf of the Settlement Class.

The Court will determine whether to approve the amount of fees and costs and expenses requested by Class Counsel and the proposed service awards to the Class Representatives. Class Counsel will file an application for fees, expenses, and service awards no later than October 25, 2023. The application will be available on the Settlement Website, www.LowerDataIncidentSettlement.com or you can request a copy by contacting the Settlement Administrator.

EXCLUDING YOURSELF FROM THE SETTLEMENT

17. How do I get out of the Settlement?

If you are a Settlement Class Member and you do not want the benefits from the Settlement, and you want to keep your right, if any, to sue Defendant on your own about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself from—or “opting out” of—the Settlement Class.

You may opt out of the Settlement by **November 9, 2023**. To opt out, you must send a letter or postcard via U.S. mail to the address below. You must include the following in your letter or postcard:

- The name of this Litigation, or a decipherable approximation (*Foster et al. v. Lower, LLC*, No. 1:22-cv-01581-GLR (D. Md.);
- Your full name, address, telephone number, and signature.
- The words “Requests for Exclusion” at the top of the document or a statement that you want to opt out of the settlement; and
- If you are filing a request for exclusion on behalf of an incapacitated or deceased Settlement Class Member for whom you are legally authorized to act, you must include your name, address, phone number, signature, and relationship to the Settlement Class Member, as well as that person’s name and address.

You must mail your opt-out request via First-Class postage prepaid U.S. Mail, postmarked no later than **November 9, 2023** to:

Lower LLC Settlement Administrator
Attn: Exclusion Request
PO BOX 58220
Philadelphia, PA 19102

If you fail to include the required information, your request will be deemed invalid and you will remain a Settlement Class Member and be bound by the Settlement, including all releases.

18. If I am a Settlement Class Member and don’t opt out, can I sue the Defendant for the same thing later?

No. You must opt out of the Settlement to keep your right to sue Defendant or other released parties for any of the claims resolved by the Settlement.

19. What happens if I opt out?

If you opt out of the Settlement, you will not have any rights as a member of the Settlement Class. You will not receive a payment as part of the Settlement. You will not be bound by the Settlement, releases, or by any further orders or judgments in this case. You will keep the right, if any, to sue on the claims alleged in the case at your own expense.

In addition, if you opt out of the Settlement you cannot object to this Settlement because the Settlement no longer affects you. If you object to the Settlement and request to exclude yourself, your objection will be voided, and you will be deemed to have excluded yourself.

COMMENTING ON OR OBJECTING TO THE SETTLEMENT

20. How do I tell the Court if I don't like the Settlement?

If you are a Settlement Class Member and you do not opt out of the Settlement, you can object to the Settlement if you do not think it is fair, reasonable, or adequate. You can give reasons why you think the Court should not approve it. You can't ask the Court to change or order a different settlement; the Court can only approve or deny this Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

You may object to any part of the proposed Settlement in writing. You may also appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

Your objection must be in writing and must:

- Clearly identify the case name and number (*Foster et al. v. Lower, LLC*, No. 1:22-cv-01581-GLR (D. Md.));
- Include your full name, address, telephone number, and email address (if any);
- Include the full name, address, telephone number, and email address of your counsel (if you are represented by counsel).
- State whether the objection applies only to you, to a specific subset of the Class, or to the entire Class, and also state with specificity the grounds for the objection.
- Confirm whether you intend to personally appear and/or testify at the Final Approval Hearing and if so, whether you are or will be represented by counsel; and
- Provide your signature and the signature of your duly authorized counsel or other duly authorized representative.

Completed objections must also be submitted via postal mail to the Settlement Administrator at the following address. The objection must be filed with the Settlement Administrator and must be postmarked – no later than **November 9, 2023**.

Lower LLC Settlement Administrator

Attn: Objections

PO BOX 58220

Philadelphia, PA 19102

21. What's the difference between objecting and opting out?

Objecting is telling the Court that you don't like something about the Settlement. You can object to the Settlement only if you are a Settlement Class Member and do not opt out of the Settlement. Opting out of the Settlement is telling the Court that you don't want to be part of the Settlement. If you opt out of the Settlement, you cannot object to it because it does not affect you.

THE COURT'S FAIRNESS HEARING

22. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing on **December 1, 2023**, at **10:00 am** at the federal courthouse located at 101 W Lombard Street, Courtroom 7A, Baltimore, MD 21201 before Judge George Levi Russel, III. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate; Class Counsel's application for attorneys' fees, costs, and expenses; and whether to approve service awards to the Class Representatives. If there are objections, the Court will consider them. The Court may choose to hear from people who have asked to speak at the hearing. At or after the hearing, the Court will decide whether to approve the Settlement. There is no deadline by which the Court must make its decision.

The Court may reschedule the Fairness Hearing or change any of the deadlines described in this notice. The date of the Fairness Hearing may change without further notice to the Settlement Class Members. Be sure to check the website, www.LowerDataIncidentSettlement.com for updates. You can also access the case docket via the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.mdd.uscourts.gov>.

Class Counsel will file a motion for final approval of the Settlement by December 1, 2023. Objectors, if any, must file any response to Class Counsel's motion by November 9, 2023. Responses to any objections and any replies in support of final approval of the Settlement and/or Class Counsel's application for attorneys' fees, costs, and expenses, and Service Awards will be filed by November 9, 2023.

23. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you send an objection, you do not have to come to the hearing to talk about it. As long as you mailed or filed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

24. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include a statement in your written objection (*see* Question 20) that you intend to appear at the hearing. Be sure to include your name, address, and signature as well. You cannot speak at the hearing if you opt out or exclude yourself from the Class.

IF I DO NOTHING

25. What happens if I do nothing at all?

If you are a Settlement Class Member and do nothing, you will not get any money from this Settlement, and you will not be able to sue the Defendant or other released parties for the claims released by the Settlement Agreement.

GETTING MORE INFORMATION

26. Are more details about the Settlement available?

This notice summarizes the proposed Settlement—more details are in the Settlement Agreement and other case documents available at www.LowerDataIncidentSettlement.com, by accessing the docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.mdd.uscourts.gov/>, or by visiting the office of the Clerk of the Court for the United States District Court for the District of Maryland, 101 West Lombard Street, Baltimore, MD 21201 between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

27. How do I get more information?

Visit the website, www.LowerDataIncidentSettlement.com where you will find more information, including the claim form, a copy of the Settlement Agreement, and answers to questions about the Settlement and other information to help you determine whether you are eligible for a payment.

Contact the Settlement Administrator, at 1-833-955-1999 or by writing to the Settlement Administrator at:

Lower LLC Settlement Administrator

1650 Arch Street, Suite 2210

Philadelphia, PA 19103

PLEASE DO NOT CONTACT THE COURT, THE COURT CLERK'S OFFICE, OR DEFENDANT TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

Exhibit D

**Your claim must be
submitted online or
postmarked by:
December 11, 2023**

**CLAIM FORM FOR LOWER, LLC
DATA INCIDENT SETTLEMENT**

LDB

Foster et al. v. Lower, LLC
Case No. No. 1:22-cv-01581-GLR
United States District Court – District of Maryland

**USE THIS FORM
TO MAKE A CLAIM FOR CASH COMPENSATION
AND/OR CREDIT MONITORING SERVICES**

GENERAL INSTRUCTIONS

If you received Notice of this Settlement, the Settlement Administrator identified you as a person who previously received a notice from Lower in or around mid-2022 that your Personal Identifying Information (“PII”) may have been accessed or exposed during the Data Incident which occurred between September 2, 2021, and December 16, 2021, and resulted in the potential compromise of individuals’ PII.

As a member of the Settlement Class, you are eligible to complete this Claim Form to claim (1) a \$100 pro-rata Cash Payment (in lieu of any other cash benefits) 2) up to \$2,500 for (i) reimbursement for documented out-of-pocket expenses and/or (ii) up to 10 hours of lost time compensable at \$20 per hour; (3) up to \$7,500 for documented extraordinary losses, which are unreimbursed losses from fraud or identity theft.

You may also claim 24-months of three-bureau credit monitoring benefits through CyEx with up to \$1 million in reimbursement insurance coverage.

Please refer to the Settlement Notice (Long Notice) posted on the Settlement Website www.LowerDataIncidentSettlement.com, for more information on information on submitting a Claim and information on the aggregate cap on claims.

To receive any of these benefits, you must submit the Claim Form below by December 11, 2023.

Cash Payment: All members of the Settlement Class who submit a Valid Claim using the Claim Form are Eligible for a cash payment of \$100. The Settlement Administrator will make pro rata settlement payments, which may increase or decrease the \$100 Cash Payment, subject to the total amount of the Common Fund (\$1.425 million). Class members who select this \$100 Cash Payment may not claim any of the other benefits offered herein.

Ordinary Loss Reimbursement: All members of the Settlement Class who submit a Valid Claim using the Claim Form are eligible to claim reimbursement for documented out-of-pocket expenses, not to exceed \$2,500 per member of the Settlement Class, that were incurred as a result of the Data Incident. Examples of reimbursable expenses incurred as a result of the Data Incident include bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel; fees for credit reports, credit monitoring, or other identity theft insurance products purchased on or after September 2021 that were caused or otherwise incurred as a result of the Data Incident.

**Your claim must be
submitted online or
postmarked by:
December 11, 2023**

CLAIM FORM FOR LOWER, LLC
DATA INCIDENT SETTLEMENT

LDB

Foster et al. v. Lower, LLC
Case No. No. 1:22-cv-01581-GLR
United States District Court – District of Maryland

Time Spent Dealing With the Data Incident: As part of an expense reimbursement claim, you may claim up to 10 hours of lost time, at \$20/hour, for time spent dealing with the effects of the Data Incident. This amount is subject to the \$2,500 per Class Member cap on ordinary losses.

Extraordinary Loss Reimbursement: All members of the Settlement Class who submit a Valid Claim using the Claim Form are eligible to claim reimbursement for documented extraordinary losses, not to exceed \$7,500 per member of the Settlement Class. Extraordinary losses must be an actual, documented, and unreimbursed monetary loss that was more likely than not caused by the Data Incident that is not already covered by the ordinary loss category.

Credit Monitoring: You may also claim 24 months of three-bureau credit monitoring.

Please read the claim form carefully and answer all questions. Failure to provide the required information could result in a denial of your claim.

This Claim Form may be submitted electronically *via* the Settlement Website at www.LowerDataIncidentSettlement.com or completed and mailed to the address below. Please type or legibly print all requested information, in blue or black ink. Mail your completed Claim Form, including any supporting documentation, by U.S. mail to:

Lower LLC Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

I. CLASS MEMBER NAME AND CONTACT INFORMATION

Provide your name and contact information below. You must notify the Settlement Administrator if your contact information changes after you submit this form.

First Name

Last Name

Street Address

City

State

Zip Code

Email Address (optional)

Telephone Number

Questions? Go to www.LowerDataIncidentSettlement.com or call 1-833-955-1999.

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December 11, 2023**

CLAIM FORM FOR LOWER, LLC
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LDB

II. PROOF OF CLASS MEMBERSHIP

- ☐ Check this box to certify that you were a person to whom Lower mailed notice of the Data Incident and/or Settlement.

Enter the Notice ID Number and Confirmation Code provided on your Postcard Notice.

Notice ID Number

Confirmation Code

III. PRO RATA CASH PAYMENT

- ☐ Check this box if you wish to receive a cash payment of \$100.

This amount may increase or decrease on a pro rata basis, depending upon the number of claims filed and approved.

IF YOU SELECT THIS CASH BENEFIT, YOU MAY NOT CLAIM ANY OF THE OTHER CASH SETTLEMENT BENEFITS. YOU MAY STILL CLAIM CREDIT MONITORING.

IV. IDENTITY THEFT PROTECTION

- ☐ Check this box if you wish to receive twenty-four (24) months of free three-bureau credit monitoring service.

V. COMPENSATION FOR LOST TIME

All members of the Settlement Class who have spent time dealing with the Data Incident may claim up to ten (10) hours for lost time at a rate of \$20.00 per hour. Any payment for lost time is included in the \$2,500 cap per Settlement Class member (no documentation is required).

Hours claimed (up to 10 hours – check one box) ☐ 1 Hour ☐ 2 Hours ☐ 3 Hours ☐ 4 Hours ☐ 5 Hours

☐ 6 Hours ☐ 7 Hours ☐ 8 Hours ☐ 9 Hours ☐ 10 Hours



I attest and affirm to the best of my knowledge and belief that any claimed lost time was spent related to the Data Incident.

In order to receive this payment, you must describe what you did and how the claimed lost time was spent related to the Data Incident. Check all activities below, which apply.

Questions? Go to www.LowerDataIncidentSettlement.com or call 1-833-955-1999.

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United States District Court – District of Maryland

- ☐ Calling bank/credit card customer service lines regarding fraudulent transactions.
- ☐ Writing letters or e-mails to banks/credit card companies in order to have fraudulent transactions reversed.
- ☐ Time on the internet verifying fraudulent transactions.
- ☐ Time on the internet updating automatic payment programs due to new card issuance.
- ☐ Calling credit reporting bureaus regarding fraudulent transactions and/or credit monitoring.
- ☐ Writing letters or e-mails to credit reporting bureaus regarding correction of credit reports.
- ☐ Other. Provide description(s) here:

VI. REIMBURSEMENT FOR OUT-OF-POCKET EXPENSES

All members of the Settlement Class who submit a Valid Claim using this Claim Form are eligible for reimbursement of the following **documented** out-of-pocket expenses, not to exceed \$2,500 per member of the Settlement Class, that were incurred as a result of the Data Incident:

Cost Type (Fill all that apply)	Approximate Date of Loss	Amount of Loss
<input type="radio"/> Out-of-pocket expenses incurred as a result of the Data Incident, including bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel.	<div style="border: 1px solid black; display: inline-block; padding: 2px;"> <div style="display: flex; justify-content: space-between; width: 100%;"> [][] / [][] / [][] </div> <div style="text-align: center;">(mm/dd/yy)</div> </div>	<div style="border: 1px solid black; display: inline-block; padding: 2px;"> <div style="display: flex; align-items: center;"> \$ <div style="flex-grow: 1; border-bottom: 1px solid black; position: relative;"> <div style="position: absolute; right: 0; top: -5px;">.</div> </div> </div> </div>

Examples of Supporting Third Party Documentation: Telephone bills, cell phone bills, gas receipts, postage receipts, bank account statements reflecting out-of-pocket expenses. Please note that these examples of reimbursable documented out-of-pocket

Questions? Go to www.LowerDataIncidentSettlement.com or call 1-833-955-1999.

Your claim must be submitted online or postmarked by: December 11, 2023

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Cost Type (Fill all that apply)	Approximate Date of Loss	Amount of Loss
<i>losses are not meant to be exhaustive, but exemplary. You may make claims for any documented out-of-pocket losses that you believe are reasonably related to the Data Incident or to mitigating the effects of the Data Incident.</i>		
<input type="radio"/> Fees for credit reports, credit monitoring, or other identity theft insurance products purchased after September, 2021 that were caused or otherwise incurred as a result of the Data Incident.	<div> <div> <div></div><div></div><div></div><div></div> </div> <div>/</div> <div> <div></div><div></div><div></div><div></div> </div> <div>(mm/dd/yy)</div> </div>	<div> <div>\$</div> <div> <div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div> </div> <div>.</div> <div> <div></div><div></div><div></div> </div> </div>
Examples of Supporting Documentation: <i>Receipts or account statements reflecting purchases made for Credit Monitoring or Identity Theft Insurance Services.</i>		
<input type="radio"/> Compensation for proven monetary loss, professional fees including attorneys' fees, accountants' fees, and fees for credit repair services incurred as a result of the Data Incident.	<div> <div> <div></div><div></div><div></div><div></div> </div> <div>/</div> <div> <div></div><div></div><div></div><div></div> </div> <div>(mm/dd/yy)</div> </div>	<div> <div>\$</div> <div> <div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div> </div> <div>.</div> <div> <div></div><div></div><div></div> </div> </div>
Examples of Supporting Documentation: <i>Invoices or statements reflecting payments made for professional fees/services.</i>		
YOU MUST SUBMIT DOCUMENTATION OF YOUR OUT-OF-POCKET EXPENSES		

VII. REIMBURSEMENT FOR EXTRAORDINARY LOSS EXPENSES

All members of the Settlement Class who submit a Valid Claim using this Claim Form are eligible for reimbursement of the following **documented** extraordinary loss expenses, not to exceed \$7,500 per member of the Settlement Class, that were incurred as a result of the Data Security Incident. Generally, an extraordinary loss expense is unreimbursed financial loss as the direct result of financial fraud or stolen identity.

An extraordinary loss must meet the following criteria: (i) The loss is an actual, documented, and unreimbursed monetary loss arising from fraud or misuse; (ii) The loss was more likely than not caused by the Data Incident; (iii.) The loss occurred between September 2, 2021, and the Claims Deadline; (iv) The loss is not already covered by one or more of the ordinary loss compensation categories under Section V; and the Settlement Class Member

Questions? Go to www.LowerDataIncidentSettlement.com or call 1-833-955-1999.

CLAIM FORM FOR LOWER, LLC
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Cost Type (Fill all that apply)	Approximate Date of Loss	Amount of Loss
<input type="radio"/> Extraordinary loss expenses incurred as a result of the Data Incident	<div> <div> <div></div><div></div><div></div> </div> <div>/</div> <div> <div></div><div></div><div></div> </div> <div>/</div> <div> <div></div><div></div><div></div> </div> </div> <div>(mm/dd/yy)</div>	<div> <div>\$</div> <div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div> </div> <div>.</div> <div></div> <div></div> <div></div>
Provide a written description of your extraordinary loss expenses:		
<p>YOU MUST SUBMIT DOCUMENTATION OF YOUR EXTRAORDINARY LOSS EXPENSES.</p> <p>Examples of Supporting Documentation: Bank statements, credit card statement, letters from the IRS or other tax authorities, letters from state unemployment agencies, and police reports.</p>		

VIII. PAYMENT SELECTION

- ☐ **PayPal** - Enter your PayPal email address: _____
- ☐ **Venmo** - Enter the mobile number associated with your Venmo account: __ __ __ - __ __ __ - __ __ __ __
- ☐ **Zelle** - Enter the mobile number or email address associated with your Zelle account: _____

Mobile Number: _____ - _____ - _____ or Email Address: _____

Your claim must be
submitted online or
postmarked by:
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☐ **Virtual Prepaid Card** - Enter your email address: _____

☐ **Physical Check** - Payment will be mailed to the address provided above.

IX. ATTESTATION & SIGNATURE

I swear and affirm under the laws of my state that the information I have supplied in this Claim Form is true and correct to the best of my recollection, and that this form was executed on the date set forth below.

Signature

Printed Name

Date

Exhibit E

Exclusions	
First Name	Last Name
Annette	Ramirez
Max	Ramirez
Manolis	Pahakis
John	Mullin
Sable	Martin